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THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: ) Group Art Unit: 3404  
Claudio BOFFITO et al )  
Serial No. 08/675,969 )  
Filed: July 5, 1996 )  
For: THERMALLY INSULATING )  
JACKET AND RELATED )  
PROCESS )

**SECOND SUPPLEMENTAL DECLARATION**

CLAUDIO BOFFITO, ANTONIO SCHIABEL and ALLESSANDRO GALLITOGNOTTA, being duly advised, hereby declare as follows:

Our residence, post office address and citizenship are as stated below next to our names.

We believe that we are the original, first and joint inventors of the subject matter which is claimed and for which a reissue patent is sought on an invention entitled "Thermally Insulating Jacket and Related Process", which original Letters Patent was granted to us on April 25, 1995, under U.S. Patent No. 5,408,832.

We hereby state that we have reviewed and understand the contents of the above-identified specification, including the claims thereof, as now presented.

We acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, C.F.R. §1.56(a).

We do not know and do not believe that the claimed invention was ever known or used in the United States before our invention thereof, or patented or described in any printed publication in any country before our invention thereof, or more than one year prior to this application, and that the same was not in public use or on sale in the United States of America more than one year prior to this or our original application, that the invention has not been patented or made the subject of an inventor's certificate issued before the date of our issued patent in any country foreign to the United States of America on an application filed by us or our legal representatives or assigns more than twelve months prior to the application on which said patent is based.

Applicants verily believe the original patent to be wholly or partially inoperative by reason of the patentees' claiming less than they had a right to claim in the patent, because all of the apparatus claims are limited to particular

getter materials and particular actuations of such materials and do not affirmatively recite Applicants' new and nonobvious physical structure and the process by which such structure functions.

Specifically, Applicants verily believe the original patent to be wholly or partially inoperative by reason of the patentees' claiming less than they had a right to claim in the patent because Claim 1 is limited to moisture sorbing materials having a H<sub>2</sub>O vapor pressure lower than 1 Pa at room temperature, that the vacuum in the insulating jacket have a pressure less than 100 Pa, and that the getter material be inactive prior to exposure to the vacuum. However, the specification states that the getter of the present invention works better if the sorbed gas does not contain water even when the getter is activated. It is for this reason that the gas is first contacted with the drying agent and that the getter is placed in a separate zone. Column 5, lines 42-47. The specification discloses that this result can be achieved by placing the drying agent and getter in a single container or package which is then placed in a jacket or compartment. The jacket is then filled partially or completely with insulation and evacuated in the manner described in the specification in column 4, lines 45-57. As issued, process Claim 1 does not claim this advantageous feature of

the invention, but rather is limited to other features of the preferred embodiment.

At the time of filing the application, as well as at the present time of filing, Applicants were aware that the mechanical combination of a moisture absorber and getter had broad applicability to insulating jackets. Applicants apparently so informed their company's patent liaison at that time, Mr. Storey. Subsequent to receiving this explanation, however, Mr. Storey left his job with the Assignee, and it appears that his replacement, Dr. Ciocca, did not immediately appreciate its significance. This was error. Moreover, the error was compounded by the fact that the importance of this process was apparently not explained at all to Mr. Murphy, the assignee's U.S. patent counsel, who apparently drafted claim 1, the only independent process claim in the patent. While this was error, it arose without any deceptive intention on the part of Applicants.

The Applicants are citizens of Italy, not fully versed in the English language, and did not understand the confusion that occurred among their legal representatives. Applicants first had the opportunity to review the subject matter of the claims of their issued patent subsequent to the issuance of the

patent. It was only at this time, with the assistance of new U.S. and Italian patent counsel, that it was discovered that one of the key processes of the operation of their invention had not been claimed. The applicants seek to correct this error by presenting claim 23 which is attached as an annex to this declaration.

The undersigned also aver that, as Applicants for a reissue patent, they have reviewed and understand the contents of the specification, including the claims, as amended herein to add the claim attached as an annex to this declaration, that they believe themselves to be the original and first inventors of the subject matter which is claimed and for which a patent is sought, and that they acknowledge a duty to disclose to the Patent Office all information known to them to be material to patentability.

We hereby declare that all statements herein of our own knowledge are true and that all statements herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with knowledge that willful false statements

and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: March 18, 1997

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ANNEX

23. A method according to claim 22, wherein said step of placing said first and second getters into a package comprises placing said first and second getter materials in separate chambers of a single package.